

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

Jacob Sutton, )  
Plaintiff, )  
vs. )  
Complete Payment Recovery Services, Inc., )  
Defendant )

Case No.: 1:14-cv-1173  
CIVIL COMPLAINT  
JURY DEMAND

Plaintiff, Jacob Sutton, on behalf of himself (hereinafter “Plaintiff”), by and through his undersigned attorney, alleges against the Defendant, Complete Payment Recovery Services, Inc. (hereinafter “Defendant”) as follows:

## **PRELIMINARY STATEMENT**

1. This is an action for damages arising from Defendant's violations 15 U.S.C. § 1692, *et seq.*, Fair Debt Collections Practices Act (hereinafter "FDCPA") and 47 U.S.C. § 227, *et seq.*, Telephone Consumer Protection Act (hereinafter "TCPA") The Defendant, was collecting on an alleged debt during which their acts and or omissions constituted multiple violations of the FDCPA and TCPA.

## JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. §1692k (d).
3. Venue is proper in this district under 28 U.S.C § 1391(b).

**PARTIES**

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2 4. Plaintiff is a natural person, who at all relevant times has resided in the in the city of  
3 Carmel, Hamilton County, State of Indiana, and is a “consumer” as defined by 15 U.S.C. §  
4 1692a (3).  
5

6 5. Defendant is a corporation doing business in the State of Ohio, with its corporate mailing  
7 address as 11601 Roosevelt Blvd, St. Petersburg, FL 33716, and is a “debt collector” as defined  
8 by 15 U.S.C § 1692a(6).  
9

**FACTUAL STATEMENT**

11 6. In or around June of 2013, Plaintiff began receiving telephone calls from Defendant.  
12 These calls were either placed using an automated dialer or utilized pre-recorded messages.  
13 Plaintiff did not recognize the number he was being called from. The purpose of the call was to  
14 collect upon an alleged debt due and owing on a Barnes & Noble account.  
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16 7. This Barnes & Noble account was paid, balance in full, in June of 2013.

17 8. On July 1, 2013, after receiving more than a few calls from Defendant, Plaintiff fielded  
18 one of the calls. Plaintiff was advised that the purpose of the calls was to recover alleged monies  
19 Plaintiff owed. Plaintiff advised Defendant that he no longer wished to be contacted in any way,  
20 shape or form.

22 9. Plaintiff received no calls from Defendant from July 1, 2013 to July 10, 2013.

23 10. On July 11, 2013, Plaintiff received, and fielded, another call from Defendant. Once  
24 again, Plaintiff advised that he wished all contact to cease.  
25

26 11. From the date of the second cease and desist request to present day, Plaintiff has received  
27 (33) calls that contained pre-recorded message or that were placed with an automated dialer. The  
28 list of calls is as follows:

1. 7/22/13 @ 12:32pm
2. 7/29/13 @ 10:28am
3. 8/1/13 @ 11:29am
4. 9/6/13 @ 10:12am
5. 8/8/13 @ 11:44am
6. 8/14/13 @ 2:37pm
7. 8/23/13 @ 5:23pm
8. 8/26/13 @ 12:26pm
9. 8/30/13 @ 10:11am
10. 9/19/13 @ 11:03am
11. 11/06/13 @ 9:04am
12. 11/16/13 @ 12:15pm
13. 11/23/13 @ 11:14am
14. 12/18/13 @ 9:29am
15. 12/26/13 @ 4:59pm
16. 1/02/14 @ 11:25am
17. 1/10/14 @ 11:43am
18. 1/16/14 @ 11:06am
19. 2/4/14 @ 10:33am
20. 2/7/14 @ 9:03am
21. 2/14/14 @ 11:31am
22. 2/16/14 @ 11:13am
23. 2/16/14 @ 11:13am

1 24. 2/17/14 @ 9:15am  
2 25. 2/19/14 @ 12:12pm  
3 26. 2/21/14 @ 9:36am  
4 27. 2/26/14 @ 9:30am  
5 28. 3/6/14 @ 1:59pm  
6 29. 3/12/14 @ 9:43am  
7 30. 4/8/14 @ 12:27pm  
8 31. 4/10/14 @ 10:44am  
9 32. 4/16/14 @ 4:48pm  
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12 **COUNT I**  
13 **VIOLATION OF THE FAIR DEBT COLECTIONS PRACTICES ACT**  
14 **15 U.S.C. § 1692, et seq.**  
15  
16

17 12. Plaintiff repeats the allegations contained in paragraphs 1 through 10 and incorporates  
18 them as if set forth at length herein.  
19  
20

21 13. Plaintiff requested Defendant cease and desist with any and all contact on (2) separate  
22 occasions. After the first cease request Plaintiff received a total of (33) phone calls from  
23 Defendant. After the second cease request Plaintiff received a total of (32) phone calls from  
24 Defendant.  
25

26 14. The reason for Defendant's calls was to collect monies allegedly due and owing on a  
27 Barnes & Noble account. This account was paid, balance in full, approximately (3) weeks prior  
28 to the commencement of Defendant's phone calls.  
29

30 15. Defendant's actions in continuing to place a voluminous number of phone calls are  
31 violative of the FDCPA. Defendants pursuit of an alleged debt, when same had been paid in full  
32 some (3) weeks prior to commencement of the calls by Defendant, is violative of the FDCPA.  
33  
34

1 Defendants actions are violations of 15 U.S.C § 1692(c)(a)(1), 15 U.S.C § 1692(c)(c), 15 U.S.C  
2 § 1692(d), 15 U.S.C § 1692(d)(5) and 15 U.S.C § 1692(e)(2)(A).

3 16. Plaintiff has been damaged and entitled to relief.

4  
5 **COUNT II**  
**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**  
**47 U.S.C. § 227, et seq.**

6 17. Plaintiff repeats the allegations contained in paragraphs 1 through 13 and incorporates  
7 them as if set forth at length herein.

8 18. Plaintiff requested Defendant cease and desist with any and all contact on (2) separate  
9 occasions. After the first cease request Plaintiff received a total of (33) phone calls from  
10 Defendant. After the second cease request Plaintiff received a total of (32) phone calls from  
11 Defendant.  
12

13 19. Defendant had no prior existing business relationship with Plaintiff.

14 20. Plaintiff has never given Defendant express consent, written or otherwise, that would  
15 allow Defendant to place calls that contained either pre-recorded messages or calls that are  
16 initiated via automated dialers.  
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18 21. Defendant placed one call, the June 1, 2013 call, that constitutes a non-willful violation  
19 of 41 U.S.C. § 227 b)(1)(A)(iii) and or 47 U.S.C. § 227 b)(1)(B).  
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21 22. Defendant placed a total of (33) calls after the initial cease and desist request and a total  
22 of (32) calls after Plaintiff's second cease and desist request. All (33) calls made constitute  
23 willful violations of 41 U.S.C. § 227 b)(1)(A)(iii) and or 47 U.S.C. § 227 b)(1)(B).  
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25 23. Plaintiff has been damaged and is entitled to relief.  
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## DAMAGES

WHEREFORE, Plaintiff, JACOB SUTTON, requests this Court enter judgment against Defendant and on behalf of Plaintiff for the following:

- A. That an order be entered declaring the Defendant's acts and or omissions, as described above, in violation of the FDCPA;
- B. That an order be entered declaring the Defendant's acts and omissions in violation of the TCPA;
- C. That judgment be entered against the Defendant for actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- D. That judgment be entered against the Defendant for statutory and actual damages, pursuant to 15 U.S.C. § 1692k(a)(2)(A) and (B);
- E. That the Court award costs and reasonable attorneys' fees, pursuant to 15 U.S.C. § 1692k(a)(3);
- F. That judgment be entered against the Defendant for in the amount of \$500.00 for (1) non-willful violations of 47 U.S.C. § 227 b)(1)(A)(ii).
- G. That judgment be entered against the Defendant for in the amount of \$49,500.00 for (33), separate and distinct, willful violations of 41 U.S.C. § 227 b)(1)(A)(ii)
- H. That the Court grants such other and further relief as may be just and proper.

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Dated this 14th day of July, 2014

Respectfully Submitted,

/S/ Jonathan L. Albright, Jr.

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On Behalf of:

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